

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 26, 2005

IN RE:

**PETITION OF TENNESSEE WASTEWATER
SYSTEMS, INC, TO EXPAND ITS SERVICE
AREA TO INCLUDE A PORTION OF BLOUNT
COUNTY, TENNESSEE, KNOWN AS THE
BROWNLEE COMMERCIAL BUILDING**

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**DOCKET NO.
05-00078**

**ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

This matter came before Director Deborah Taylor Tate, Director Pat Miller and Director Sara Kyle of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on July 11, 2005 to consider the *Petition of Tennessee Wastewater Systems, Inc to Amend its Certificate of Convenience and Necessity* (the “*Petition*”) requesting that the Authority expand its service area to include a portion of Blount County, Tennessee known as the Brownlee Commercial Building.

Background

On April 6, 1994, Tennessee Wastewater Systems, Inc.¹ (“TWS” or “Company”) received a Certificate of Public Convenience and Necessity (“CCN”) in Docket No. 93-09040 from the Tennessee Public Service Commission to provide wastewater service to the Oakwood Subdivision in Maury County. Since that time, through various other dockets, the Company has been granted approval to expand its service territory to include other areas in Tennessee. The

¹ Tennessee Wastewater Systems, Inc was formerly known as On-Site Systems, Inc This name change was effected by the TRA’s order of February 19, 2004, in Docket No 03-00518

Company's principal office is located in Nashville, Tennessee.

TWS filed the *Petition* in this matter on March 21, 2005. The Authority issued Data Requests on March 28 and April 29, 2005. TWS provided responses to the Data Requests in a timely manner. TWS filed the Pre-filed Direct Testimony of Charles Pickney, Jr. on May 25, 2005.

Legal Standard for Granting Certificate of Public Convenience and Necessity

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining approval of the Authority. The procedure for obtaining a CCN evidencing such approval is set forth in Tenn. Code Ann. § 65-4-201(a), which states as follows:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate. . . .

The Petition

On March 21, 2005, TWS filed the *Petition* requesting that its service area be expanded to include a portion of Blount County, Tennessee known as the Brownlee Commercial Building. TWS attached several documents to its *Petition* in support of its request to expand its service area. TWS attached a copy of its contract with MC Enterprises, LLC² ("MC Enterprises") and Joseph and Aileen Brownlee³ memorializing an agreement between TWS, MC Enterprises and Mr. and Mrs. Brownlee for wastewater service. In addition, TWS attached letters from each of

² MC Enterprises, LLC is leasing or expected to lease retail space in the Brownlee Commercial Building under the agreement

³ Joseph Brownlee and Aileen Brownlee are the owners of the Brownlee Commercial Building

the two potential wastewater service providers stating that neither potential provider currently serves the area. The letters also indicate that neither of the other potential wastewater service providers intends to extend wastewater service to the Brownlee Commercial Building.⁴

Rate Schedules

The Company also attached rate schedules listing the Company's commercial sewer rates (with and without food service), a listing of the Company's sewer systems with commercial customers and a service area map showing the proposed location of Brownlee Commercial Building.⁵

The monthly commercial rate, without food service, will be based on the design flow expected from the type of establishment being served. A minimum of seventy-five dollars (\$75.00) per month will be charged for the first 300 gallons per day design flow expected (except off-site⁶ will have a seventy-three dollar (\$73.00) minimum plus pass through costs). For each additional 100 gallons per day of design flow expected, up to 1,000 gallons per day, an additional charge of fifteen dollars (\$15.00) per month per 100 gallons will be applied. For design flows expected over 1,000 gallons per day, up to 3,000 gallons per day, the following monthly charges per 1,000 gallons of daily flow will apply:

<u>Treatment</u>	<u>Drip/Spray Irrigation</u>	<u>Point Discharge</u>	<u>Off Site</u>
Sand-Gravel Filter	\$140.00	\$165.00	N/A
Lagoon	\$116.00	\$140.00	N/A
Off Site	N/A	N/A	Pass- Through Costs+ \$73.00

For design daily flows over 3,000 gallons, the monthly charge on all system configurations will be one hundred sixteen dollars (\$116.00) per 1,000 gallons of daily flow. Additional surcharges

⁴ See *Petition* (unnumbered attachments) (March 21, 2005) Letter from Beverley D Woodruff, Mayor, Blount County, Tennessee to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc (April 26, 2004), Letter from Kenny Myers, Mayor, City of Townsend, Tennessee to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc (December 7, 2004)

⁵ *Petition*, (unnumbered attachments) (March 21, 2005)

⁶ Off-site means the treatment and disposal are performed by another entity

will apply when expected design flows are exceeded. For any month that a customer's water meter reading exceeds the expected design flow, the following surcharges will apply:

<u>Excess water usage</u>	<u>Surcharge</u>
1 gallon to 1,000 gallons above expected design flow	\$175.00
1,001 gallons to 2,000 gallons above expected design flow	\$200.00
Over 2,000 gallons above expected design flow	\$200.00/1,000 gallons

If the water meter readings exceed the design flow for any three consecutive months, the monthly charge will be revised to reflect the increased usage. The customer will pay capital costs associated with increasing the capacity of the system.

The monthly commercial rate, with food service, will be based on the design flow expected from the type of establishment being served. A minimum of one hundred dollars (\$100.00) per month will be charged for the first 300 gallons per day design flow expected (except off-site will have a ninety-four dollar (\$94.00) minimum plus pass through costs). For each additional 100 gallons per day of design flow expected, up to 1,000 gallons per day, an additional charge of eighteen dollars (\$18.00) per month per 100 gallons will be applied. For design flows expected over 1,000 gallons per day, up to 3,000 gallons per day, the following monthly charges per 1,000 gallons of daily flow will apply:

<u>Treatment</u>	<u>Drip/Spray Irrigation</u>	<u>Point Discharge</u>	<u>Off Site</u>
Sand-Gravel Filter	\$170.00	\$192.00	N/A
Lagoon	\$142.00	\$163.00	N/A
Off Site	N/A	N/A	Pass-Through Costs+\$94.00

For design daily flows over 3,000 gallons, the monthly charge on all system configurations will be one hundred forty-two dollars (\$142.00) per 1,000 gallons of daily flow. Additional surcharges will apply when expected design flows are exceeded. For any month that a customer's water meter reading exceeds the expected design flow, the following surcharges will apply:

Excess water usage

Surcharge

1 gallon to 1,000 gallons above expected design flow	\$210.00
1,001 gallons to 2,000 gallons above expected design flow	\$220.00
Over 2,000 gallons above expected design flow	\$220.00/1,000 gallons

If the water meter readings exceed the design flow for any three consecutive months, the monthly charge will be revised to reflect the increased usage. The customer will pay capital costs associated with increasing the capacity of the system.

Other commercial fees include a five percent (5%) fee for non-payment, a disconnection fee of ten dollars (\$10.00), a reconnection fee of fifteen dollars (\$15.00) and a returned check fee of twenty dollars (\$20.00).

The July 11, 2005 Hearing

Pursuant to Tenn. Code Ann. § 65-4-201(a), public notice of the Hearing in this matter was issued by the Hearing Officer on June 16, 2005. No person sought intervention prior to or during the Authority Conference. At the Authority Conference held on July 11, 2005, Mr. Charles Pickney, President of TWS, participated, presented testimony and was subject to examination by the panel. Mr. Pickney moved to have his Pre-Filed Testimony entered into the record in this matter at the Authority Conference. The Pre-Filed Testimony states that the Company has the managerial, technical and financial ability to provide wastewater services to Brownlee Commercial Building.⁷ Additionally, the panel took administrative notice of TWS's 2004 annual report filed with the Authority. TWS has received a permit from the Tennessee Department of Environment and Conservation for the system.⁸

Upon the presentation of the Company's proof, the evidentiary record as a whole and in light of the legal standard set forth in Tenn. Code Ann. § 65-4-201(a), the panel voted unanimously to grant approval of the *Petition*.


⁷ Charles Pickney, Jr., Pre-Filed Testimony, p 1 (May 25, 2005)

⁸ Data Response, p 2 (April 4, 2005)

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include Brownlee Commercial Building in Blount, Tennessee, as shown in the map attached to the *Petition* is approved.
2. The Petitioner's rates for wastewater service shall be as listed in the rate schedules filed with the *Petition* and as set forth in this Order.


Deborah Taylor Tate, Director


Pat Miller, Director


Sara Kyle, Director